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HOUSE BILL 629

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Irvin Harrison

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; WAIVING INVESTMENT GUIDELINES
FOR CERTAIN FILM PROJECTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000
(2nd S.S.), Chapter 6, Section 2, as amended) is amended to
read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW
MEXICO.--

A. No more than two and one-half percent of the
market value of the severance tax permanent fund may be
invested in New Mexico film private equity funds or a New
Mexico film project under this section.

B. If an investment is made under this section, not
more than seven million five hundred thousand dollars

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1 (\$7,500,000) of the amount authorized for investment pursuant
2 to Subsection A of this section shall be invested in any one
3 New Mexico film private equity fund or any one New Mexico film
4 project.

5 C. The state investment officer shall make
6 investments pursuant to this section only upon approval of the
7 state investment council after a review by the private equity
8 investment advisory committee and the New Mexico film division
9 of the economic development department. The state investment
10 officer may make debt or equity investments pursuant to this
11 section only in New Mexico film projects or New Mexico film
12 private equity funds that invest only in film projects that:

13 (1) are filmed wholly or substantially in New
14 Mexico;

15 (2) have shown to the satisfaction of the New
16 Mexico film division that a distribution contract is in place
17 with a reputable distribution company;

18 (3) have agreed that, while filming in
19 New Mexico, a majority of the production crew will be
20 New Mexico residents;

21 (4) have posted a completion bond that has
22 been approved by the New Mexico film division; provided that a
23 completion bond shall not be required if the fund or project is
24 guaranteed pursuant to Paragraph (5) of this subsection; and

25 (5) have obtained a full, unconditional and

underscoring material = new
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1 irrevocable guarantee of repayment of the invested amount in
2 favor of the severance tax permanent fund:

3 (a) from an entity that has a credit
4 rating of not less than Baa or BBB by a national rating agency;

5 (b) from a substantial subsidiary of an
6 entity that has a credit rating of not less than Baa or BBB by
7 a national rating agency;

8 (c) by providing a full, unconditional
9 and irrevocable letter of credit from a United States
10 incorporated bank with a credit rating of not less than A by a
11 national rating agency; or

12 (d) from a substantial and solvent
13 entity as determined by the state investment council in
14 accordance with its standards and practices; or

15 (6) if not guaranteed pursuant to Paragraph
16 (5) of this subsection, have obtained no less than one-third of
17 the estimated total production costs from other sources as
18 approved by the state investment officer.

19 D. The state investment officer may purchase at a
20 discount, from an eligible New Mexico film project, up to
21 eighty percent of an expected and estimated film production tax
22 credit available to a film production company pursuant to the
23 provisions of Section 7-2F-1 NMSA 1978. The New Mexico film
24 division of the economic development department shall determine
25 the estimated amount of a film production tax credit. The

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1 state investment council shall establish guidelines for the
2 state investment officer's initiation of a purchase and the
3 terms of the purchase.

4 E. As used in this section:

5 (1) "committed capital" means the sum of the
6 fixed amounts of money that accredited investors have obligated
7 for investment in a New Mexico film private equity fund, which
8 fixed amounts may be invested in that fund in one or more
9 payments over time;

10 (2) "film project" means a single media or
11 multimedia program, including advertising messages, fixed on
12 film, videotape, computer disc, laser disc or other similar
13 delivery medium from which the program can be viewed or
14 reproduced and that is intended to be exhibited in theaters;
15 licensed for exhibition by individual television stations,
16 groups of stations, networks, cable television stations or
17 other means; or licensed for the home viewing market; and

18 (3) "New Mexico film private equity fund"
19 means any limited partnership, limited liability company or
20 corporation organized and operating in the United States that:

21 (a) has as its primary business activity
22 the investment of funds in return for equity in film projects
23 produced wholly or partly in New Mexico;

24 (b) holds out the prospects for capital
25 appreciation from such investments; and

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1 (c) accepts investments only from
2 accredited investors as that term is defined in Section 2 of
3 the federal Securities Act of 1933, as amended, and rules
4 promulgated pursuant to that section.

5 F. When a film project is proposed to take place
6 predominantly in a New Mexico county that is economically
7 depressed, the state investment council may approve an
8 investment even though the proposed project cannot meet the
9 requirements set forth in Paragraphs (4), (5) and (6) of
10 Subsection C of this section. For the purposes of this
11 subsection, "county that is economically depressed" means a
12 county, at the time of an application for an investment
13 pursuant to the Severance Tax Bonding Act, that has:

14 (1) an unemployment rate that is twenty-five
15 percent higher than the rate for the state as a whole, as
16 determined by the department of labor; and

17 (2) at least twenty-five percent of its
18 population below the federal poverty level, as estimated by
19 the United States census bureau."